



Building and Zoning Department
Phone: 630/377-4406 - Fax: 630/443-4638

APPLICATION FOR VARIATION REQUEST BEFORE THE ST. CHARLES ZONING BOARD OF APPEALS

The following are guidelines for a variation request before the St. Charles Zoning Board of Appeals:

1. The application must be completely filled out and all required attachments submitted.

Attachments Required:

- A. One (1) copy of a plat of survey or plot plan (to scale) of the property showing dimensions of all lot lines, existing and proposed structures and distances from lot lines, easements and adjoining streets or uses.**
 - B. A written certified list (ATTACHMENT A) containing the registered owners, their mailing and tax parcel numbers as recorded in the Office of the Recorder of Deeds in the county in which the property is located and as appears from the authentic tax records of such county, of all property within 250 feet in each direction of the location for which the variation is requested, provided all the number of feet occupied by all public roads, streets, alleys and other public ways shall be excluded in computing the 250 feet requirement. Registered owner information may be obtained at the St Charles Township Assessor's office, 1725 Dean St., St. Charles, (630) 584-2040. The Kane County Recorder of Deeds is located in the Kane County Government Center, 719 Batavia Ave., Geneva, and (630) 232-5935. The DuPage County Recorder of Deeds is located in the DuPage County Government Center, 421 N. County Farm Rd., Wheaton, and (630) 682-7200.**
 - C. Filing fee in the amount of \$500.00 must be rendered at the time the application is submitted. If payment is made by check, it should be made payable to the City of St. Charles.**
 - D. Reimbursement to the City of miscellaneous fees is as follows: Publication of legal notice: Court reporter and transcript fees; mailing (postage) costs. *The reimbursement of these miscellaneous fees must be paid prior to issuance of any permit* in connection with the requested action.**
 - E. Letter of authorization from the property owner as to the request for the zoning variation must be included, if such authorization is applicable.**
 - F. Disclosure of beneficiaries of a land trust must be included, if applicable.**
- 2. To view the City of St. Charles zoning code you may visit our web site at <http://www.ci-st-charles.il.us>.**
- 3. In order for consideration at the hearing scheduled for _____ the application, attachments and fee must be submitted to the Building & Zoning Department no later than 9:00 a.m. on _____.**

CITY OF ST. CHARLES

ZONING BOARD OF APPEALS
TWO EAST MAIN STREET
ST. CHARLES, ILLINOIS 60174-1984

| |
|-------------------|
| FOR OFFICE USE |
| Received _____ |
| File # _____ |
| Fee Paid \$ _____ |
| Receipt _____ |

APPLICATION FOR A VARIATION

PLEASE PRINT AND PROVIDE ALL INFORMATION AS REQUESTED.

APPLICANT & OWNER:

Name of Applicant* _____ Phone _____

Address/City/State/Zip _____

Applicant's interest in the property _____

Name and Phone of Owner(s) of Record* _____

Applicant is (check one) _____ Attorney _____ Agent _____ Owner _____ Other: _____

Owner acquired the property on (date): _____

ADDRESS, USE & ZONING OF PROPERTY:

Address of Property (attach legal description) _____

Present Use (commercial, industrial, residential, etc.) _____

Zoning District _____

To your knowledge, have any previous applications for variations been filed in connection with this property? _____

If YES, provide relevant information _____

ACTION BY APPLICANT ON PROPERTY:

Permit applied for and denied? (yes or no) _____

An Appeal was made with respect to this property? (yes or no) _____

Appeal Application File Number _____

Appeal approved? (yes or no) _____

Appeal Application accompanies this request for variation? (yes or no) _____

*In the event that the applicant or owner is a trustee of a land trust or beneficiary of a land trust, a statement identifying each beneficiary by name and address of such land trust and defining his/her interest therein must be attached hereto. Such statement shall be verified by the trustee of such trust.

REASON FOR REQUEST:

- A. Variation requested (state specific measurements) _____

- B. Reason for request _____

- C. Explanation of purpose for which property will be used _____

ACTION BY APPLICANT ON PROPERTY:

- A. What physical characteristics would prevent the property from being used in conformity with the requirements of the zoning ordinance? _____

- B. Are the conditions stated above applicable to other properties within the same zoning classification? (explain) _____

- C. Is the purpose of the proposed variation based on more than a desire to make money from the property? (explain) _____

- D. Has the alleged difficulty or hardship been created by any person presently having an interest in the property? (explain) _____

- E. Based on your answers to the preceding questions, check the box that you believe most accurately states your position with regard to the property if the property is permitted to be used only under the conditions allowed by regulations in the zoning district. Explain the basis for your answer:
- ☐ Cannot yield a reasonable return _____

- ☐ Is greatly reduced in value _____

- ☐ The owner is deprived of all reasonable use of the property _____

HARMONY WITH GENERAL PURPOSE AND INTENT:

- A. Will the proposed variation alter the essential character of the property? (explain) _____

- B. Will the proposed variation be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located? (explain)

- C. Will the proposed variation(s) impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood? (explain)

ATTACHMENTS REQUIRED:

- A. One (1) copy of a plat of survey or plot plan (to scale) of the property showing dimensions of all lot lines, existing and proposed structures and distances from lot lines, easements and adjoining streets or uses.
- B. A written certified list containing the registered owners, their mailing addresses and tax parcel numbers as recorded in the Office of the Recorder of Deeds in the county in which the property is located and as appears from the authentic tax records of such county, of all property within 250 feet in each direction of the location for which the variation is requested, proved all the number of feet occupied by all public roads, streets, alleys and other public ways shall be excluded in computing the 250 feet requirement. The Kane County Recorder of Deeds is located in the Kane County Government Center, 719 Batavia Avenue, Geneva.
- C. Filing fee in the amount of **\$500.00** must be rendered at the time the application is submitted. If payment is made by check, it should be made payable to the City of St. Charles.
- D. Reimbursement to the City of miscellaneous fees is as follows: **Publication of legal notice; court reporter and transcript fees; mailing (postage) costs.** The reimbursement of these miscellaneous fees *must be paid prior to issuance of any permit* in connection with the requested action.
- E. Letter of authorization from the property owner as to the request for the zoning variation must be included, if such authorization is applicable.
- F. Disclosure of beneficiaries of a land trust must be included, if applicable.
- G. A variation shall lapse after twelve months from the date of grant thereof unless construction authorized is commenced on a building permit for the use specified by the variation within twelve months, or the use in commenced within such period.

I (we) certify that all of the above statements and the statements contained in any documents submitted herewith are true to the best of my (our) knowledge and belief.

Signature of Applicant or agent

Print name of applicant/agent

Date

Signature of owner

Print name of owner

Date

Mailing List

Note: Applicant must complete this form (please print) and include it with the application

Following are the names and addresses of surrounding property owners from the property in question for a distance of 250 feet in all directions. The number of feet occupied by all public roads, streets, alleys, and public ways has been excluded in computing the 250-foot requirement. Said names are recorded in the Office County Recorder of Deeds as appears on the authentic tax records of the county or counties (See page 1, item 1.b for Kane, DuPage and St. Charles Township information.)

[illegible]

Tax Permanent Parcel No.**Name of Registered Owner****Mailing Address**[illegible]

Tax Permanent Parcel No.

Name of Registered Owner

Mailing Address

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I (We), _____, being first duly sworn on oath certify that
all of the above statements and the statements contained in any papers or plans submitted
herewith are true and correct.

Signature of applicant or authorized agent

Date

Signature of owner

Date

Subscribed and sworn to before me this _____ day of _____, _____.

Notary Public _____

Procedures for Public Hearing Before the St. Charles Zoning Board of Appeals

The purpose of a public hearing before the St. Charles Zoning Board of Appeals is to hear and record testimony for and against a request for a variation to the zoning ordinance or an appeal to a decision made by the Building Commissioner. At the end of the hearing, the Board makes a decision either to grant or to deny the variation or the appeals to the decision. The following rules have been established so that everyone who appears before the Board is treated fairly. Your cooperation is appreciated.

The Mayor and the City Council appoint the members of the Zoning Board of Appeals, and they serve without pay. The Board makes its decision based on the zoning ordinance and the facts presented at the public hearing.

Attached please find a copy from the St. Charles Municipal Code, Title 17, Section 17.42.040 "Variations." It is very important the petitioner and if there is a representative read this Section, in particular Paragraph E in its entirety. If there are any questions on any of the information within this Section, please contact Robert Vann, Building Zoning Commissioner.

It is the responsibility of the petitioner or his/her representative to present testimony and evidence to support his/her request for variation to the Board members. This evidence may include verbal testimony, witnesses either in person or by letter, pictures, drawings, plans, or any other documentation to support their request. Be advised any evidence submitted in the form of documentation will remain in the Variation Application file; therefore it is the responsibility of the petitioner or his/her representative provide a minimum of 12 copies of any evidence submitted at the hearing.

If the petitioner or his/her representative will be using a power point or any other type of electronic presentation, it is their responsibility to bring the necessary equipment for the presentation. If this is part of the testimony, a disk or cd of the presentation is to given to the Board to maintain in the Variation Application file.

Hearing Procedures

- The Chairman opens the hearing and the Secretary calls roll. The Chairman presents the minutes from the previous hearings for approval or corrections
- The Chairman opens the hearing on a request for variation or an appeal to a decision by the Building Commissioner. The Secretary will identify the documents presented to the Board into the record.
- The Chairman swears in the petition (s), or the representative of the petitioner, others present who wished to testify in favor of the request for variation or appeals or others who wish testify against the request for variation or appeals, the Building Commissioner, and any City staff who will be providing testimony.
- Once the petitioner or the representative of the petitioner is sworn in he/she may then give a short presentation.
- The members of the Board may question the petitioner or the representative of the petitioner.
- Others present who wish to testify in favor or against the request for variation or appeal may give testimony. In order to assure that every person has an opportunity to be heard, the Board may impose a time limit on the length of each testimony.

- The petitioner or representative may respond to the testimony and make a final statement. The petitioner may amend or withdrawn a request or appeals during the hearing or ask for a continuation of the hearing until a later date.
- The Board may review and discuss the issues.
- In the case of a request for variation, the Board shall vote to grant or deny, wholly or in part, the request. In the case of an appeal, to a decision by the Building Commissioner, the Board shall vote to affirm or deny wholly or in part or modify, the decision in question. The Board may move to continue the hearing to a specific date, time, and place. By Illinois law, the Board must have four (4) affirmative votes to grant a variation or reverse a decision of the Building Commissioner.

If You Wish To Speak At The Hearing

- The Chairman must swear you in.
- At the beginning of your statement, state your name, spell it, and give your address.
- Speak loudly and clearly. Address your comments to the Chairman.
- Be brief. Avoid repeating what others have said before you.
- The Board has the right to impose a time limit on testimony. In order to assure that every person has an opportunity to be heard, the Board may impose a time limit on the length of each testimony.
- Submit written information whenever possible. All documents submitted at the hearing shall be formally entered into the record as exhibits and become the property of the city, unless permission is given to withdraw the original and submit copies. The minimum number of copies of documents submitted at the hearing is 12 copies.
- Testimony shall include facts and specific reasons, not just opinions.
- All oral testimony given at the hearing shall be recorded by a court reporter and on audiotape.

To view the City of St. Charles zoning code you may visit our web site at <http://www.ci.st-charles.il.us>

MUNICIPAL CODE TITLE 17

17.42.040 Variations.

- A. Definition. A variation is an administrative decision of the board of zoning appeals that, if approved, permits an applicant to depart from the precise regulations of this title. A variation may be granted only in the specific instances authorized in this section and only in accordance with the standards recited in this section.
- B. Decisions. The board of zoning appeals may vary the regulations of this title in harmony with the general purpose and intent of this title in the specific instances set forth in this section, where the board makes findings of fact in accordance with the standards prescribed in this section, and further, finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this title. All final administrative decisions of the board of zoning appeals shall be subject to judicial review.
- C. Validity. A variation shall lapse after twelve months from the date of grant thereof unless construction authorized is commenced on a building permit for the use specified by the variation within twelve months, or the use is commenced within such period.
- D. Authorized Variations. Variations from the regulations of this title shall be granted by the board of zoning appeals only in accordance with the standards established in subsection E below and may be granted only in the following instances and in no others:
 - 1. To permit any yard or setback of less deep than a yard or a setback required by the applicable regulations;
 - 2. To allow a fence or wall in excess of the height limitations specified in Chapter 17.02;
 - 3. To permit the use of a lot for a use prohibited solely because of insufficient area or width, but in no event shall the area or width of the lot be less than ninety percent (90%) of the required lot area or width.
 - 4. To permit the same off-street parking facility to qualify as required facilities for two or more uses, provided that use of such facility by each user does not take place at the same hours of the same days of the week.
 - 5. To increase by not more than twenty percent the maximum gross floor area ratio of any use so limited by the applicable provisions of the zoning district.
- E. Standards for Variations. The board of zoning appeals shall permit a variation of the provisions of the title, as authorized in this section, only if the evidence, in the judgement of the board of zoning appeals, sustains each of the following three conditions:
 - 1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations governing the district in which it is located.
 - 2. The plight of the owner is due to unique circumstances; and
 - 3. The variation, if granted, will not alter the essential character of the locality.

For the purpose of supplementing the above standards, the board of zoning appeals, in making this determination whenever there are particular difficulties or particular hardship, also shall take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:

- 1. That the particular physical surroundings, shape or topographical conditions of the specific property involved would bring a particular hardship upon the owner as distinguished from a mere inconvenience if the strict letter of the regulation were to be carried out;
- 2. That the conditions upon which the petition for a variation is based would not be applicable generally to other property within the same zoning classification;
- 3. That the purpose of the variation is not based exclusively upon a desire to make more money out of the property.
- 4. that the alleged difficulty or hardship has not been created by any person presently having interest in the property;

5. That the granting of the variation will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; or
 6. That the proposed variation will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or otherwise endanger the public safety, or substantially diminish or impair property values within the neighborhood.
- F. Application. An application for a variation may be made by any person, firm or corporation, or by any office, department, board, bureau or commission of the city. An application for a variation is filed with the building commissioner. An application for a variation shall be on a form provided by the building commissioner and shall contain all information required on such form including the following:
1. Legal description of property for which a variation is requested;
 2. The requested variation identified as authorized by a paragraph or paragraphs of subsection D above;
 3. The reasons which application relies upon as justifying the requested variation;
 4. An eight and one-half inch by 11 inch sketch of the property showing all lot lines, existing and proposed structures and adjoining streets or uses and the distances between said structures and the lot lines.
- G. Notice of Hearing.
1. No variation shall be made by the board of zoning appeals except after a public hearing before the board, of which there shall be a notice of the time and place of the hearing published at least once, no more than thirty days nor less than fifteen days before the hearing, in one or more newspapers published in the city.
 2. The applicant shall file with the building commissioner a written certified list containing the registered owners and their mailing addresses, as appears from the authentic tax records of the county in which the property is located, and as recorded in the office of the recorder of deeds of such county of all property within two hundred fifty feet in each direction of the location for which the variation is requested, provided the number of feet occupied by all public roads, streets, alleys and other public ways shall be excluded in computing the two-hundred-fifty-foot requirement.
 3. The board of zoning appeals shall, not more than thirty days nor less than fifteen days before the hearing at which the application for variation is to be considered, send written notice to the person appearing on the list furnished by the applicant, which notice shall contain the time and place of the hearing, the address of the location for which the variation is requested and the name and address of the applicant for variation and a brief statement of the nature of the variation requested.
 4. The board of zoning appeals shall hear no application for variation unless the applicant for the variation has furnished the certified list required in this chapter and the board of zoning appeals has sent out the notices as required in this section.
- H. Hearing. The board of zoning appeals shall hold a public hearing at which evidence in support of the variation must be presented by or on behalf of the applicant and any evidence presented by interest parties shall be heard. On the basis of evidence presented, the board of zoning appeals shall record their findings of fact, their decision, the vote of the members and the reasons for granting or denying the variation. (Or. 1981-Z-6 § 1(part); Ord. 1985-Z-11 § 1(part).)

17.42.050 Appeals.

- A. Initiation. An appeal may be taken to the board of zoning appeals by any person, aggrieved, or by an officer, department, board, or bureau of the city, aggrieved by a written decision, order or determination under this title by the building commissioner of the city of St. Charles. Such an appeal shall be taken within forty-five days of the action complained of by filing with the building commission and with the board of appeals a notice of appeal, specifying the ground thereof, and by paying a fee of such amount as may be established from time to time by the city council. The building commissioner shall forthwith transmit to the board all of the papers constituting the record upon which the action appealed from was taken.

B. Findings on appeals. An appeal shall stay all proceedings in furtherance of the action appealed from unless the building commissioner certifies to the board of zoning appeals after the notice of appeal has been filed with him that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property, in which case the proceedings shall not be stayed other than by a restraining order, which may be granted by the board of zoning appeals or by a circuit court on application and on notice to the building commissioner and on due cause shown. The board of zoning appeals shall fix a reasonable time and place for hearing of the appeal and give due notice thereof to the parties. The board shall thereafter reach its decision within a reasonable time from filing of the appeal. Upon the hearing, any party may appear in person or by agent or by attorney. The board of zoning appeals may affirm or may reverse, wholly or in part, or may modify the order, requirement, decision or determination as in its opinion ought to be made in the premises, and to that end, has all the powers of the officer from whom the appeal is taken. The building commissioner shall maintain records of all actions of the board of zoning appeals relative to appeals. (Ord. 1981-Z-6 § 1(part).)

17.42.090 Fees.

Any person, firm, corporation or agent who files a petition for amendment or an application for appeal, variation, special use, or planned unit development, or, pursuant to such petition or application, has plans or documents reviewed by or on behalf of the city, or has improvements required under the terms of this title inspected by or on behalf of the city, shall be charged a fee in accordance with a schedule of fees established by the city. Fees shall be paid regardless of whether the application or petition filed is approved, disapproved or withdrawn. (Ord. 1993-Z-20 § 1(part); Ord. 1981-Z-6 § 1(part).)

17.42.100 Fee Schedule.

The following schedule of fees is established:

A. Filing and Review Fees: Filing fees are intended to cover the cost of providing information to the public about an application, preparing notices, distributing plans to City departments and other agencies, preparing agenda packets and minutes for the Board of Zoning Appeals, Plan Commission, Historic Preservation Commission, City Council, and other applicable review bodies, and other administrative tasks. They are also intended to cover the cost for City staff (not including Public Works Department personnel) to participate in meetings, visit the site, review plans, prepare reports, conduct inspections, and any other activity pertaining to review of the application. Filing and review fees are hereby established as follows:

| | |
|---|---------|
| Appeals: | \$150 |
| Variations: | \$500 |
| General (Text) Amendment: | \$500 |
| Zoning Map Amendments: | \$750 |
| Special Use and Amendment to Special-Use | \$1,000 |
| Annexation of property: | \$1,000 |
| Annexation Agreement: | \$2,000 |
| Special Use as a Planned Unit Development (PUD): | \$2,000 |
| Site Plan Review (O-R Districts): | \$1,000 |

- B. Reimbursement for Public Works Department Review: The applicant shall reimburse the City for the cost per productive work hour for the City Engineer and each Public Works Department staff member involved in review, meetings, and associated tasks relative to any application or petition.
- C. Reimbursement for Professional Services: The applicant shall reimburse the City for the direct cost of the following:
1. Fees for landscape architect's review and consultation in connection with review of the petition or application, and inspection of construction, including meetings and associated tasks.
 2. Fees for traffic analysis performed by a member of the Institute of Transportation Engineers and approved by the City Engineer, when such traffic analysis is requested by the City.
 3. Fees for city attorney's review and negotiations in connection with the petition or application.
 4. Fees for professional engineering consultant's review of plans and documents and construction inspection including meetings and associated tasks.
 5. Fees for planning consultant's review and consultation in connection with review of the petition or application, and inspection of construction, including meetings and associated tasks.
- D. Reimbursement for Miscellaneous Expenses: The applicant shall reimburse the City for miscellaneous costs incurred relative to any application or petition, including but not limited to:
1. Publication of legal notices
 2. Court reporter and transcript fees
 3. Mailing (postage) Costs
 4. Recording fees
- E. Engineering Inspection. The applicant shall reimburse the City for the cost per productive work hour of the City Engineer and each Public Works Department staff member involved in inspections, plan review, meetings, and associated tasks relative to inspection of construction.

17.42.105 Payment.

The petitioner or applicant shall pay the full filing and review fee for each category of petition or plan submitted. For example, if an applicant files an application for a map amendment and an application for a special use as a planned unit development, he shall pay both the map amendment and the PUD special use petition fees. However, a single category of application may include multiple requests, and a separate fee shall not be required for each request. For example, an application for special use may include two requested special uses. The fees set forth herein shall be in addition to those payable under any other provision of the St. Charles Municipal Code, as amended. Filing fees are payable upon filing of the application or petition. All reimbursements and other fees are due and payable as follows:

- A. Appeals and variations: Prior to issuance of any permit in connection with the requested action.

B. General amendments, map amendments, special uses, PUD's and annexations: Prior to final action by the City Council, such as passage of an ordinance approving the application or a resolution disapproving it."

17.42.110 Publications.

- A. Official Zoning Map: \$5.00
- B. Zoning Ordinance (Title 17): 20.00